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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/016,682
Filing Date: October 31, 2001
Appellant(s): YOSHITANI ET AL.

Lyle Kimms
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/20/08 appealing from the Office
action mailed 3/20/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,771,382	Misawa et al.	8-2004
6,268,937	Kim	7-2001

6,057,934

Morigami

5-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 6, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misawa '382 in view of Kim '937.

Referring to claim 1, Misawa et al. disclose an image processing apparatus (composite communication apparatus 10 of Fig. 1, col. 3, lines 19-35) comprising:

an inputter arranged to input image data representing an image (image reading unit 15 of Fig. 1, col. 3, lines 19-35);

a first producer arranged to produce data for transmission by facsimile based on the image data input by said inputter (facsimile unit 80 of Fig. 1, col. 3, lines 19-35);

a second producer arranged to produce data for transmission by electronic mail based on the image data input by said inputter (email transmission unit 17 of Fig. 1, col. 3, lines 19-35);

a selector arranged to select a facsimile transmission or an electronic mail transmission based on an instruction by a user (S01 of Fig. 3, col. 4, lines 45-51, electronic mail transmission unit or facsimile transmission unit is selected); and

a controller arranged to control said first and second producers in a manner such that when the data for transmission by electronic mail is produced by said second producer in accordance with a selection of the electronic mail transmission by said selector, the data for transmission by electronic mail is produced without a processor adding white data to the image data input by said inputter to alter the size of the image represented by the input image data to the predetermined image size even if the image represented by the input image data is smaller than the predetermined image size (S62 and S78 of Fig. 6)

Misawa '382 does not disclose expressly altering the size of the image to a predetermined image size if the image is to be sent by facsimile.

Kim '937 discloses a processor arranged to process image data input by an inputter in a manner such that the image represented by the image data has a predetermined image size by adding white data to the image data input by said inputter (col. 3, lines 58-63, in order to compensate for the difference between the transmission size and the original document size, white pixels are added); and

when the data for transmission by facsimile is produced by a first producer in accordance with a selection of the facsimile transmission, the data for transmission by facsimile is produced after said processor adds the white data to the image data input by said inputter to alter the size of the image represented by the input image data to the

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predetermined image size for transmission by facsimile if the image represented by the input image data is smaller than the predetermined image size (col. 3, lines 58-63, in order to compensate for the difference between the transmission size and the original document size, white pixels are added).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to add white pixels to an image to reach a predetermined image size when the image is sent via facsimile. The motivation for doing so would have been compensate for the difference between the original image size and the transmission or paper size. Therefore, it would have been obvious to combine Kim '937 with Misawa '382 to obtain the invention as specified in claim 1.

Referring to claim 2, Misawa '382 discloses wherein said inputter inputs the image data from a reader which reads the image and generates the image data based on the image (image reading unit 15 of Fig. 1, col. 3, lines 19-35).

Referring to claim 3, Misawa '382 discloses wherein said inputter inputs the image data from a detachable memory (image reading unit 15 of Fig. 1, col. 3, lines 19-35). Misawa '382 discloses that the scanner can be separate from the composite communication apparatus (col. 7, lines 31-52). It is inherent that the scanner has memory for receiving image data. The scanner can be detached from the system because it is a separate device, therefore the image reading unit 15 is a detachable memory.

Referring to claim 6, Misawa '382 discloses wherein said controller restricts operations of said first and second producers according to a predetermined condition (S56 of Fig. 6, col. 6, lines 13-17).

Referring to claim 15, see the rejection of claim 1 above.

Referring to claim 16, see the rejection of claim 1 above.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Misawa '382 and Kim '937 as applied to claim 1 above, and further in view of Morigami '934.

Referring to claim 5, Misawa '382 discloses wherein said controller controls said first producer and said second producer but does not disclose expressly using different gamma values for producing the data.

Morigami '934 discloses different gamma values in producing data for facsimile and monitors (col. 9, lines 59-67, typical gamma coefficient is 0.45 for CRT and 0.65-0.8 for a facsimile machine).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to produce an image for facsimile transmission with a different gamma value than producing an image for email. The motivation for doing so would have been to utilize typical gamma values in producing the images to obtain accurate images. Therefore, it would have been obvious to combine Morigami '934 with Misawa '382 and Kim '937 to obtain the invention as specified in claim 5.

(10) Response to Argument

The appellant argues on pages 4 and 5 of the response in essence that:

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Altering the image size after automatically selecting the transmission type defeats the teaching of Misawa '382 of automatically selecting the transmission method based on the image size.

a. Misawa '382 discloses selecting a transmission type based on the data size of a document (col. 2, lines 20-26). However, Misawa '382 further discloses that the transmission type is merely a suggestion and can be changed according to the user's wishes (col. 6, lines 65-67, the user can accept the notice or may not accept the notice and can use the transmission unit which the user wanted to use). Kim '937 discloses adding white pixels to alter the size of an image that is to be sent by facsimile (col. 3, lines 58-63, in order to compensate for the difference between the transmission size and the original document size, white pixels are added). Therefore, altering an image sent by facsimile transmission as taught by Kim '937 does not defeat the teaching of Misawa '382. Furthermore, the size determinations of Misawa '382 and Kim '937 are based on two different applications of size. Misawa '382 discloses making the transmission type selection (col. 8, lines 10-21) based on the file size (col. 4-5, lines 59-67, 1-6). Kim discloses altering the size of the image to match a predetermined image size (i.e. two-dimensional image size) for transmission by facsimile if the image represented by the input image data is smaller than the predetermined image size (col. 3, lines 58-63). This combination does not destroy the reference of Misawa '382 because the size determining the method of transmission (i.e. data size) is not the same as the predetermined image size the image data is altered

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to be (i.e. two-dimensional image size). As an example, selecting the transmission type based on a 1 MB reference value (i.e. data size), the system of Misawa '382 would utilize facsimile transmission if the file is greater than 1 MB. After facsimile transmission is selected, the image data size (i.e. two-dimensional image size) would be determined and altered if less than a predetermined image size. The data size and the two-dimensional image size are unrelated (i.e. a 2x2cm image could have a greater data size than a 10x10cm image).

The appellant argues on page 5 of the response in essence that:

Combining the teaching of Kim '937 with the system of Misawa '382 would result in adding white data to the image for all transmission types.

b. Kim '937 discloses facsimile transmission but is silent in regards to electronic mail transmission. Because Kim '937 teaches adding white pixels for only facsimile transmission (to compensate for the difference between the original image size and the transmission or paper size), the reference does not have to expressly state that this process would not be applied to an electronic mail transmission, or any other transmission method. There would be no reason to add white pixel data to electronic mail data as electronic mail data is not regularly formatted to a paper size and printed like the case of facsimile data (i.e. a facsimile is stored as a set number of pages whereas an email is stored according to data size). Therefore, the combination of Misawa '382 and Kim '937

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teaches adding white pixel data to an image for facsimile transmission but not adding white pixel data for electronic mail transmission.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Peter K. Huntsinger/

Examiner, Art Unit 2625

Conferees:

David Moore

/David K Moore/

Supervisory Patent Examiner, Art Unit 2625

Mark Zimmerman

/M. K. Z./

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